IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 30080 of 1998

Between:

The Depot Manager APSRTC, Narayankhed

..... PETITIONER

AND

1. Sri D. Shankar Rao, E.91542, Ex-Conductor,
   Gandhari (Po) & (M), Nizamabad District.

2 The Presiding Officer Labour Court-II, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the award in I.D.No.8/95, dated 09-01-1997 on the file of the Labour Court-II, Hyderabad and quash the same as arbitrary and illegal by way of issue of writ of certiorari or any other appropriate Writ, order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR. V. T. M. PRASAD

Counsel for the Respondent No.1: MR. G. RAVI MOHAN

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following:

ORDER:

This writ petition is filed by the petitioner Corporation aggrieved by the award passed by the Labour Court in I.D.No.8 of 1995 dated
09-01-1997.

2. The first respondent-workman was appointed as Conductor of the petitioner Corporation on 11-10-1977. On 07-04-1993 while the first respondent-workman was conducting the bus bearing No.AEZ 5461 on the route 'Narayanakhed - Yadagirigutta', a check was exercised at stage No.21 and the checking officials found certain 'cash and ticket' irregularities. Therefore, the first respondent-workman was served with a charge Memo. After receiving the explanation from the workman, an enquiry was conducted. The Enquiry Officer submitted his report holding that the charges framed against the first respondent-workman are proved. The disciplinary authority, therefore, passed orders of removal of the first respondent-workman from service, vide proceedings dated 07-08-1993. The first respondent was un-successful in the appeal filed before the departmental authority, and therefore raised the above industrial dispute before the Labour Court. The Labour Court after considering the material on record, though confirmed the findings as to the misconduct, but, however, held that the punishment of removal was disproportionate to the alleged misconduct and therefore, ordered reinstatement, setting aside the order of removal with continuity of service and all other attendant benefits, but, however, denied the back wages. Aggrieved by that, the Corporation has come up with the present writ petition.

3. The learned Counsel for the petitioner contended that the Labour Court was in error in setting aside the order of removal, having found that the findings recorded by the Enquiry Officer are proper and correct. The learned Counsel also contended that the 1st respondent-workman is not entitled for the benefits that are awarded by the

Labour Court. Hence, sought for setting aside the order of the Labour Court.

4. The learned Counsel for the first respondent-workman, on the other hand, supported the impugned order. It is contended that after the order of the Labour Court, the first respondent was reinstated into service and is due for retirement by the end of this month. Therefore, the learned Counsel sought to dismiss the writ petition.

5. Heard both sides and considered the material on record.

6. Admittedly, the first respondent was appointed as Conductor in the year 1977, and a check was conducted in the year 1993 while he was conducting the bus between 'Narayanakhed - Yadagirigutta', and the checking officials found that he was involved in 'cash and ticket' irregularity. Thereafter, a regular departmental enquiry was conducted, and after enquiry, the Enquiry Officer found that all the charges framed against the first respondent-workman are proved. Basing on the said report, the disciplinary authority passed an order of removal of the first respondent-workman from service. The first respondent-workman was un-successful before the appellate authority and therefore, raised the industrial dispute before the Labour Court. The Labour Court, though on appreciation of the material on record held that the findings recorded by the Enquiry Officer are un-assailable, but, however, taking into account the gravity of the punishment visa-a-vis the alleged misconduct, felt that the order of removal is harsh and disproportionate and therefore, set aside the order of removal and ordered reinstatement with continuity of service, with all attendant benefits, but without back wages. Though the petitioner-Corporation contended that the said order passed by the Labour Court is unsustainable, but on appreciation of the material on record and also in view of the services rendered by the first respondent-workman since 1977, the date on which he was appointed as a Conductor, the punishment of denial of back wages for the period for which he was out of service is sufficient for the alleged misconduct. Therefore, the impugned order of the Tribunal does not call for any interference.

7. The writ petition is accordingly dismissed. No costs.

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S. ANANDA REDDY, J

Dt.24-09-2004

Glv/kvh

ASSISTANT REGISTRAR

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SECTION OFFICER

Copies to:

1. The Depot Manager APSRTC, Narayankhed.
2. The Presiding Officer, Labour Court-II, Hyderabad.
3. Two CCs to the Government Pleader for Labour, High Court Buildings, Hyderabad. (OUT).
4. Two CD copies.